



**SEALED**

# SEALED BY ORDER OF COURT

## UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA San Jose Venue

**FILED**  
SEP 27 2018  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE, CALIFORNIA

### Petition for Arrest Warrant for Offender Under Supervision

Name of Offender  
Octavio Moran Perez

Docket Number  
0971 5:16CR00340-001 BLF

2:19-mj-541-VCF

Name of Sentencing Judge: The Honorable Larry Alan Burns  
United States District Judge  
Southern District of California (SD/CA)

Date of Original Sentence: January 3, 2011

Original Offense: Count One: Importation of Cocaine, 21 U.S.C. §§ 952, 960, a Class A Felony

Original Sentence: 90 months imprisonment, five years supervised release.

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
JUL 23 2019	
CLERK U.S. DISTRICT COURT DISTRICT OF NEVADA	
BY:	DEPUTY

Special Conditions: \$100 special assessment; search; not enter republic of Mexico without permission; report all vehicles owned or operated; financial disclosure; full-time employment or education; residential re-entry center for 90 days. Additional conditions ordered October 24, 2017: participate in mental health treatment, participate in drug abuse testing and treatment; abstain from alcohol; register as a drug offender; DNA; no weapons; search.

Prior Form(s) 12: On June 14, 2016, a petition to modify the conditions of supervised release was filed in the SD/CA, requesting a drug treatment and testing condition as a result of a positive result for cocaine during a random urinalysis administered by our office. It is noted that in the signed petition by the Honorable Judge Burns, he included that "any further dirty test (sic) to be reported and shall result in OSC RE: Revocation." Jurisdiction was also transferred and approved by the SD/CA in the same petition. This Court accepted the transfer of jurisdiction on July 29, 2016.

On January 18, 2017, a modification request was submitted to the Court requesting the addition of mental health counseling, which was ordered

On July 20, 2017, a petition for Perez' arrest was filed alleging Charges One through Four. The warrant was executed on August 9, 2017. The client made his initial appearance before the Honorable Nathanael Cousins, U.S. Magistrate Judge, who remanded Perez into custody of the U.S. Marshals Service. An appearance before Your Honor was set for September 5, 2017.

On August 10, 2017, a petition for an amended arrest warrant was submitted to Your Honor alleging the client violated the standard condition number seven that he not use any controlled substances unless prescribed by a physician, in that he submitted a positive urinalysis test for

RE: Perez, Octavio Moran  
0971 5:16CR00340-001 BLF

2

amphetamines, methamphetamines and marijuana; that he violated the special condition that he reside at the residential re-entry center (RRC) for 90 days, in that he failed to report to the RRC; that he violated special condition to participate in mental health counselling, in that he failed to show for the scheduled assessment; that he violated standard condition number seven that he answer truthfully all inquiries by the probation officer and follow the instructions of the officer, in that he ignored messages with instructions from the officer; that he violated the mandatory condition that he no commit another federal, state, or local crime, in that he was arrested for trespassing; that he violated standard condition number seven, that he not possess any paraphernalia related to any controlled substance, unless prescribed by a physical, and in that he was found in possession of paraphernalia use for ingesting a controlled substance.

On October 24, 2017, his supervision was revoked and a sentence of 90 days imprisonment (credit for time served in official detention) and three years supervised release was imposed. His supervised release was transferred to the District of Nevada. Presently, the client is incarcerated at the Santa Cruz County Jail in Santa Cruz, California, where he is serving a sentence of imprisonment for a new law violation alleged in the previous petition.

Type of Supervision  
Supervised Release  
Assistant U.S. Attorney  
Patrick Delahunty

Date Supervision Commenced  
January 21, 2016  
Defense Counsel  
Kory DeClark, (AFPD)

**Petitioning the Court for the issuance of a no-bail warrant for the offender's arrest.**

I, Janella Tolbert, a Probation Officer employed in the United States District Court for the Northern District of California, solemnly affirm and declare, under penalty of perjury, that to the best of my information and belief, the facts set forth in this affidavit are true and correct. The factual affirmations made below are based on my personal knowledge, on official records or documents generated and maintained by my agency in the course of performing its functions, on official records or documents generated and maintained by other government agents or agencies in the course of performing their functions, or on information provided to me orally or electronically by employees or agents of other public agencies (information developed or acquired in the course of performing official agency functions).

**Charge Number      Violation**

One

There is probable cause to believe that the client violated the mandatory condition that he not commit another federal, state, or local crime.

On August 14, 2018, the client was arrested in San Bernardino County, California, for a violation of California Vehicle Code § 23152(a) - Driving Under the Influence.

According to the crime report prepared by the California Highway Patrol (CHP), on August 14, 2018, a report of a reckless driver was made to the local police dispatch. Officers initiated a traffic stop on the

RE: Perez, Octavio Moran  
0971 5:16CR00340-001 BLF

3

PT Cruiser matching the description given by dispatch. The officer detected the odor of an alcoholic beverage emitting from the vehicle, and saw an ice chest on the floor board with beer inside. Officers noticed the client's eyes were red and watery. The client admitted to the officer that he had been drinking earlier that day. Once the client exited the vehicle, the officer detected an odor of an alcoholic beverage emitting from his person and breath. A series of pre-Field Sobriety Tests (FST) were administered, and the client failed to perform FSTs as explained and demonstrated. The officer performed preliminary alcohol screening (PAS) tests to determine the blood alcohol content (BAC) of the client. The PAS tests yielded results for .083% and .085% BACs.

Evidence of the alleged violation can be found in the CHP Case Number 201800148.

Charge Number

Violation

Two

There is probable cause to believe that the client violated standard condition number three that he not knowingly leave the district where he resides without the permission of the Court or probation officer.

As noted in Charge One, the client was arrested in San Bernardino County, an area outside of the District of Nevada where he resided. He did not obtain permission from the Court or probation officer to be outside of his supervising district.

Evidence of the alleged violation can be found in the CHP Case Number 201800148, and the case notes dated September 24, 2018, outlining a conversation with his supervising USPO in the District of Nevada.

Charge Number

Violation

Three

There is probable cause to believe that the client violated special condition number four that he must abstain from the use of all alcoholic beverages.

As noted in Charge One, the client was arrested in San Bernardino County for Driving Under the Influence. The client had the smell of alcohol on his person and breath. He admitted to the officer that he had been drinking earlier in the day, failed the FST, and had .083% and .085% BAC results.

Evidence of the alleged violation can be found in the CHP Case Number 201800148.

RE: Perez, Octavio Moran  
0971 S:16CR00340-001 BLF

4

Based on the foregoing, there is probable cause to believe that Octavio Moran Perez violated the conditions of his supervised release. Therefore, I ask the Court to issue a no-bail warrant for his arrest.

Respectfully submitted,

Reviewed by:

*Janella Tolbert*

*Aylin McFarland*

Janella Tolbert  
United States Probation Officer  
Date Signed: September 26, 2018

Aylin McFarland  
Supervisory United States Probation Officer

Having considered the information set forth above, the Court finds there is probable cause to believe there has been a violation of the conditions of supervision and orders:

☒ The issuance of a no-bail warrant AND ORDER THAT THIS FORM BE FILED UNDER SEAL, AND NO PUBLIC RECORD OF WARRANT ISSUANCE BE MADE, UNTIL EXECUTED WARRANT IS RETURNED FROM THE U.S. MARSHAL. THE FORM 12 WILL BE AUTOMATICALLY UNSEALED AND BE PART OF THE PUBLIC RECORD UPON ITS EXECUTION.

☐ Other:

Date

*Sept 26, 2018*

*Beth Labson Freeman*

Beth Labson Freeman  
United States District Judge

RE: Perez, Octavio Molan  
0971 5:16CR00340-001 BLF

5

**APPENDIX**

Grade of Violations: C

Criminal History at time of sentencing: I

	<b>Statutory Provisions</b>	<b>Guideline Provisions</b>
<b>Custody:</b>	5 years (18 U.S.C. § 3583(e)(3))	3-9 months (USSG § 7B1.4(a))
<b>Supervised Release:</b>	5 years, less any term of custody previously imposed – 18 U.S.C. § 3583(h)	5 years, less any term of custody previously imposed – 18 U.S.C. § 3583(h)
<b>Probation:</b>	Not Authorized	Not Authorized

7687328

CLERK OF COURT

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America

v.

Case No. **CR-16-00340-BLF**

**Octavio Moran Perez**

*Defendant*

**ARREST WARRANT**

To: Any authorized law enforcement officer

**YOU ARE COMMANDED** to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested)

**Octavio Moran Perez**

who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint  
☐ Probation Violation Petition ☒ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

**18:3583 – Violation Supervised Release**

Date: Sept. 28, 2018

*Cita F. Escalano*  
Issuing officer's signature

City and state: San Jose, CA

**Cita F. Escalano - CR CSA**  
Printed name and title

**Return**

This warrant was received on (date) \_\_\_\_\_, and the person was arrested on (date) \_\_\_\_\_  
at (city and state) \_\_\_\_\_

Date: \_\_\_\_\_

Arresting officer's signature

Printed name and title

RECEIVED  
U.S. MARSHAL  
2018 SEP 28 AM 4:41